

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

United States District Court
Southern District of Texas
FILED

DEC 19 2017

David J. Bradley, Clerk

UNITED STATES OF AMERICA

v.

JOE BLACKWELL

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Criminal No.

M-17-1934

SEALED INDICTMENT

THE GRAND JURY CHARGES:

**Counts One through Eight
(Mail Fraud 18 U.S.C. §1341)**

At all times relevant to this indictment:

Relevant Parties

1. **Joe Blackwell**, defendant herein, is an individual who resides in the Southern District of Texas.

Joe Blackwell owned and operated Auto Sense, Inc.

2. Auto Sense, Inc. was a Texas corporation located in Pharr, Texas and was in the business of selling used automobiles.

3. Rio Bank is a financial institution that caters to both deposit and loan businesses. Rio Bank is located in McAllen, Texas and insured by the Federal Deposit Insurance Corporation (FDIC).

4. Strategic Dealer Services (SDS) is an automobile financing company located in Irving, Texas. SDS provides financial services to businesses that sell used automobiles. SDS's financing services includes purchasing a company's "vehicle installment contracts."

5. Peritus Capital Partners, LLC is an automobile financing company located in Southlake, Texas. PPS provides financial services to businesses that sell used automobiles. PPS's financing services includes purchasing a company's "vehicle installment contracts."

6. A "vehicle installment contract" is a written agreement between the purchaser and Auto Sense,

7. Inc., where the purchaser agrees to make monthly payments for the purchase of an automobile.

Rio Bank Loan

8. On or about May 2010, **Joe Blackwell** applied for a line of credit with Rio Bank. On or about May 26, 2010 Rio Bank did provide a line of credit in the amount of \$350,000.00 to Auto Sense, Inc. Additionally, Rio Bank provided two more lines of credit on July 20, 2010 and on January 14, 2011.
9. As a condition to secure the line of credit, **Joe Blackwell** agreed to use Auto Sense's vehicle inventory and vehicle installment contracts as collateral.
10. On or about March 27, 2012, Rio Bank agreed to consolidate all of Auto Sense's indebtedness into one final consolidation loan in the amount of \$1,529,207.49. **Joe Blackwell** agreed to personally guarantee the final consolidation loan that was set to mature on July 11, 2013.
11. **Joe Blackwell** was instructed that he could not sell vehicle installment contracts in order to generate cash flow for Auto Sense, Inc. These vehicle installment contracts were intended to be used as collateral to secure the final consolidation loan.

Strategic Dealer Services contract

12. On or about November 14, 2012, and after receiving the final consolidation loan with Rio Bank, **Joe Blackwell** entered into a financing agreement with Strategic Dealer Services. **Joe Blackwell** agreed to sell Auto Sense's vehicle installment contracts to Strategic Dealer Services for money.
13. As part of this agreement, **Joe Blackwell** represented that selling of these vehicle installment contracts to Strategic Dealer Services did not violate the terms of any instruments, agreements, pledges or indentures to which **Joe Blackwell** or Auto Sense, Inc. were a party. **Joe Blackwell** further represented that there were no liens, claims or encumbrances covering the transferred purchasing an automobile.

Peritus Capital Partners contract

14. On or about September 27, 2012, **Joe Blackwell** entered into an agreement with Peritus Capital Partners, LLC. **Joe Blackwell** agreed to sell Auto Sense's vehicle installment contracts to Peritus Capital Partners, LLC for money.
15. As part of this agreement, **Joe Blackwell** represented that he had full ownership, title, and interest in the vehicle installment contracts that he intended to sell to Peritus Capital Partners.
16. Additionally, **Joe Blackwell** represented that he had good and marketable title to the vehicle installment contracts free and clear of any encumbrances, equity, lien, pledge, charge, claim, security interest or other right or title of any third party.

THE OFFENSE

**Counts One through Eight
(Mail Fraud 18 U.S.C. § 1341)**

17. From on or about March 27, 2012, and continuing to on or about February 19, 2013, in the Southern District of Texas, and within the jurisdiction of the Court, the defendant,

JOE BLACKWELL

having devised and intending to devise a scheme and artifice to defraud and to obtain money and property from Strategic Dealer Services by means of material false and fraudulent pretenses, representations, and promises, well knowing at the time that said pretenses, representations, and promises would be and were false and fraudulent when made, and for the purpose of executing the scheme and artifice to defraud and for obtaining money and property from Strategic Dealer Services, did knowingly cause to be sent or delivered through the United States Postal Service certain matter or things as further described in the Counts below.

THE MANNER AND MEANS OF THE SCHEME AND ARTIFICE

18. It was part of the scheme and artifice to defraud that the defendant, **Joe Blackwell**, did sell to Strategic Dealer Services certain vehicle installment contracts that were previously pledged as collateral in obtaining a line of credit with Rio Bank. **Joe Blackwell** knew that these vehicle installment contracts could not be sold without first obtaining consent from Rio Bank.
19. It was further a part of the scheme and artifice to defraud that the defendant, **Joe Blackwell**, did obtain or cause to be obtained certain duplicate automobile titles that were provided to Strategic Dealer Services in order to facilitate the sale of vehicle installment contracts belonging to Auto Sense, Inc. **Joe Blackwell** knew that the original automobile titles were in Rio Bank's possession.
20. It was further a part of the scheme and artifice to defraud that the defendant, **Joe Blackwell**, knew that proceeds for the sale of these vehicle installment contracts would be sent by Strategic Dealer Services either by mail or wire transfer.

THE EXECUTION OF THE SCHEME AND ARTIFICE

21. On or about the dates set forth in the Counts below, in the McAllen Division of the Southern District of Texas and elsewhere, for the purpose of executing the aforesaid scheme and artifice to defraud, and to obtain money and property by means of false and fraudulent pretenses, representations and promises and intending to do so, the defendant did knowingly send and caused to be delivered through the United States Mail according to the directions thereon, mail matter containing bank checks issued by Strategic Dealer Services that represented the proceeds of the sale of vehicle installment contracts belonging to Auto Sense, Inc. and as further described in the Counts below:

<u>Count</u>	<u>Date Posted</u>	<u>Item Mailed</u>	<u>Amount of Check</u>	<u>Item Mailed To</u>	<u>For Vehicle</u>
One	02/14/2013	Check (No.1201)	\$5,230.00	Auto Sense, Inc. In Pharr, Texas	2006 BMW X3 Series
Two	02/04/2013	Check (No.1253)	\$5,930.00	Auto Sense, Inc. In Pharr, Texas	2008 Dodge Dakota
Three	02/07/2013	Check (No. 1259)	\$6,430.00	Auto Sense, Inc. In Pharr, Texas	2009 Jeep Patriot
Four	01/03/2013	Check (No.1238)	\$6,540.00	Auto Sense, Inc. In Pharr, Texas	2006 Ford F-150
Five	01/03/2013	Check (No. 1239)	\$5,490.00	Auto Sense, Inc. In Pharr, Texas	2007 Dodge Nitro
Six	02/19/2013	Check (No.1205)	\$8,400.00	Auto Sense, Inc. In Pharr, Texas	2008 Ford F-250
Seven	01/17/2013	Check (No. 1245)	\$6,230.00	Auto Sense, Inc. In Pharr, Texas	2010 Toyota Corolla
Eight	12/03/2012	Check (No. 1207)	\$4,690.00	Auto Sense, Inc. In Pharr, Texas	2007 Ford 500

In violation of Title 18 United States Code, Sections 1341 and 2.

**Counts Nine through Twelve
(Wire Fraud 18 U.S.C. § 1343)**

22. The Grand Jury incorporates by reference paragraphs 1 through 15 of this Indictment as though fully restated and re-alleged herein.

THE OFFENSE

23. From on or about March 27, 2012, and continuing to on or about March 12, 2013, in the Southern District of Texas, and within the jurisdiction of the Court, defendant,

JOE BLACKWELL

having devised and intending to devise a scheme and artifice to defraud and to obtain money and property from Strategic Dealer Services, by means of false and fraudulent pretenses, representations, and promises, well knowing at the time that said pretenses, representations, and promises would be and were false and fraudulent when made, and for the purpose of executing the scheme and artifice to defraud and for obtaining money and property, did knowingly cause to be transmitted by means of wire communication in interstate commerce,

that is from outside the state of Texas to inside the state of Texas, certain writings, signs, signals and sounds in violation of Title 18, United States Code, Section 1343.

THE MANNER AND MEANS OF THE SCHEME AND ARTIFICE

24. It was part of the scheme and artifice to defraud that the defendant, **Joe Blackwell**, did sell to Strategic Dealer Services certain vehicle installment contracts that were previously pledged as collateral in obtaining a line of credit with Rio Bank. **Joe Blackwell** knew that these vehicle installment contracts could not be sold without first obtaining consent from Rio Bank.
25. It was further a part of the scheme and artifice to defraud that the defendant, **Joe Blackwell**, did obtain or cause to be obtained duplicate automobile titles that were provided to Strategic Dealer Services in order to facilitate the purchase of the vehicle installment contracts belonging to Auto Sense, Inc. **Joe Blackwell** knew that the original automobile title were in Rio Bank's possession.
26. It was further a part of the scheme and artifice to defraud that the defendant, **Joe Blackwell**, knew that payment would be sent by Strategic Dealer Services either by mail or wire transfer.

THE EXECUTION OF THE SCHEME AND ARTIFICE

27. In order to execute the scheme and artifice, the defendant committed the following acts, among others, in the Southern District of Texas and elsewhere:
28. From on or February 22, 2013, and continuing to on or about March 12, 2013, defendant,

JOE BLACKWELL

did knowingly cause to be transmitted by means of wire communication in interstate commerce, that is from East Rutherford, New Jersey, outside the state of Texas to inside the state of Texas, at McAllen, Texas, certain writings, signs, signals and sounds transmitting certain information including as set forth hereafter:

<u>Count</u>	<u>Date of Deposit</u>	<u>Amount of Deposit</u>	<u>SDS Transaction Number</u>	<u>For Vehicle</u>
Nine	02/22/2013	\$8,400.00	4340	2011 Chevrolet Malibu
Ten	02/22/2013	\$11,660.00	4769	2009 Ford Fusion
Eleven	02/28/2013	\$6,430.00	4933	2005 Chevrolet Tahoe
Twelve	03/12/2013	\$6,230.00	5128	2011 Mitsubishi Galant

In violation of Title 18, United States Code, Section 1343 and 2.

**Counts Thirteen through Twenty-Four
(Wire Fraud 18 U.S.C. § 1343)**

29. The Grand Jury incorporates by reference paragraphs 1 through 15 of this Indictment as though fully restated and re-alleged herein.

THE OFFENSE

30. From on or about March 27, 2012, and continuing to on or about July 19, 2013, in the Southern District of Texas, and within the jurisdiction of the Court, defendant,

JOE BLACKWELL

having devised and intending to devise a scheme and artifice to defraud and to obtain money and property from Peritus Capital Partners, LLC, by means of false and fraudulent pretenses, representations, and promises, well knowing at the time that said pretenses, representations, and promises would be and were false and fraudulent when made, and for the purpose of executing the scheme and artifice to defraud and for obtaining money and property, did knowingly cause to be transmitted by means of wire communication in interstate commerce, that is from outside the state of Texas to inside the state of Texas, certain writings, signs, signals and sounds in violation of Title 18, United States Code, Section 1343.

THE MANNER AND MEANS OF THE SCHEME AND ARTIFICE

31. It was part of the scheme and artifice to defraud that the Defendant, **Joe Blackwell**, did sell to Peritus Capital Partners, LLC certain vehicle installment contracts that were previously pledged as collateral in obtaining a line of credit with Rio Bank. Additionally, the defendant, **Joe Blackwell**, had sold these same vehicle installment contracts to Strategic Dealer Services. **Joe Blackwell** knew that these vehicle installment contracts could not be sold without first obtaining consent from Rio Bank. Additionally, **Joe Blackwell** failed to inform Peritus Capital Partners, LLC that he had previously sold these vehicle installment contracts to Strategic Dealer Services, thus preventing Peritus Capital Partners, LLC from having good and marketable title, that were free and clear of any encumbrances, equity, lien, pledge, charge, claim, security interest or other right or title of any third party, to the vehicle installment contracts.

32. It was further a part of the scheme and artifice to defraud that the defendant, **Joe Blackwell**, did obtain or cause to be obtained duplicate automobile titles that were provided to Peritus Capital Partners in order to facilitate approval of the purchase of the vehicle installment contracts belonging to Auto Sense, Inc. **Joe Blackwell** knew that the original automobile titles were in Rio Bank's possession and duplicates were in Strategic Dealer Services's possession.

33. It was further a part of the scheme and artifice to defraud that the Defendant, **Joe Blackwell**, knew that payment would be sent by Peritus Capital Partners, LLC by wire transfer.

THE EXECUTION OF THE SCHEME AND ARTIFICE

34. In order to execute the scheme and artifice, the defendant committed the following acts, among others, in the Southern District of Texas and elsewhere:

35. From on or March 5, 2013, and continuing to on or about July 19, 2013, defendant,

JOE BLACKWELL

did knowingly cause to be transmitted by means of wire communication in interstate commerce, that is from East Rutherford, New Jersey, outside the state of Texas to inside the state of Texas, at McAllen, Texas, certain writings, signs, signals and sounds transmitting certain information including as set forth hereafter:

<u>Count</u>	<u>Date of Deposit</u>	<u>Amount of Deposit</u>	<u>Vehicle</u>
Thirteen	07/11/2013 to 07/19/2013	\$8,545.53	2006 BMW X3 Series
Fourteen	06/05/2013	\$8,271.20	2008 Dodge Dakota
Fifteen	06/05/2013	\$13,512.50	2011 Chevrolet Malibu
Sixteen	06/05/2013	\$9,445.20	2009 Jeep Patriot
Seventeen	06/05/2013	\$9,169.94	2009 Ford Fusion
Eighteen	06/05/2013	\$9,066.02	2005 Tahoe
Nineteen	07/11/2013 to 07/19/2013	\$11,571.72	2011 Mitsubishi Galant
Twenty	07/11/2013 to 07/19/2013	\$15,757.82	2006 Ford F-150
Twenty-One	06/05/2013	\$11,311.45	2007 Dodge Nitro
Twenty-Two	06/05/2013	\$11,430.26	2008 Ford F-250
Twenty-Three	06/05/2013	\$9,592.84	2010 Toyota Corolla
Twenty-Four	07/11/2013 to 07/19/2013	\$11,546.88	2007 Ford 500

In violation of Title 18, United States Code, Section 1343 and 2.

**Count Twenty-Five
(Bank Fraud 18 U.S.C. § 1344(2))**

36. The Grand Jury incorporates by reference paragraphs 1 through 15 of this Indictment as though fully restated and re-alleged herein.

THE OFFENSE

37. From on or about 2010, and continuing to on or about July 19, 2013, in the Southern District of Texas, and within the jurisdiction of the Court, defendant,

JOE BLACKWELL

having devised a scheme and artifice to knowingly obtain money, funds, credits, assets, securities, and other property owned by and under the custody and control of Rio Bank, a bank whose deposits were then and there insured by the Federal Deposit Insurance Corporation, by means of false and fraudulent pretenses, representations, and promises, and did place Rio Bank at risk of civil liability and financial loss, in violation of Title 18, United States Code, Section 1343.

THE MANNER AND MEANS OF THE SCHEME AND ARTIFICE

38. It was part of the scheme and artifice to defraud that the Defendant, **Joe Blackwell**, did enter into a final consolidation loan with Rio Bank in the amount of \$1,529,207.49. As a condition to secure the line of credit, **Joe Blackwell** agreed to use Auto Sense's vehicle inventory and vehicle installment contracts as collateral. Additionally, **Joe Blackwell** was instructed that he could not sell these vehicle installment contracts to generate cash flow for Auto Sense, Inc.
39. It was part of the scheme and artifice to defraud that the Defendant, **Joe Blackwell**, did sell to Strategic Dealer Services and Peritus Capital Partners, LLC certain vehicle installment contracts that had been previously pledged as collateral. The sale of these vehicle installment contracts prevented Rio Bank from later selling these contracts and using the proceeds to satisfy Auto Sense's line of credit obligation.

THE EXECUTION OF THE SCHEME AND ARTIFICE

40. On or about the dates set forth in the Counts below, in the McAllen Division of the Southern District of Texas and elsewhere, for the purpose of executing the aforesaid scheme and artifice to defraud, and to obtain money, funds, credits, assets, securities, and other property owned by and under the custody and control of Rio Bank, a bank whose deposits were then and there insured by the Federal Deposit Insurance Corporation by means of false and fraudulent pretenses, representations and promises and intending to do so, the defendant, **Joe Blackwell**, did sell approximately twelve (12) vehicle installment contracts to Strategic Dealer Services and Peritus Capital Partners, LLC, well knowing that he had agreed not to do so as part of the terms of the final consolidation loan with Rio Bank, which then and there prevented Rio Bank from selling those vehicle installment contracts and apply the sales proceeds to the final consolidation loan and thus placing Rio Bank at risk of civil liability and financial loss.

In violation of Title 18, United States Code, Section 1344(2) and 2.

NOTICE OF FORFEITURE

18 U.S.C. § 1341
18 U.S.C. § 1343
18 U.S.C. § 1344(2)

The allegations contained in Counts 1 through 25 of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Section 982(a)(2)(A).

Upon conviction of mail fraud, a violation of Title 18, United States Code, Section 1341, as set forth in Counts 1 through 8 of this Indictment, wire fraud, a violation of Title 18, United States Code, Section 1343, as set forth in Counts 9 through 24, or bank fraud, a violation of Title 18, United States Code, Section 1344(2), as set forth in Count 25, the defendant, Joe Blackwell,

shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 982(a)(2)(A), any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of such violation(s).

The Defendant is notified that a money judgment may be imposed equal to the value of property subject to forfeiture. The money judgment sought is estimated to be, but is not limited to, \$976,479.92 in United States currency.

If any of the property described above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1) and Title 28, United States Code, Section 2461(c).

All pursuant to 18 U.S.C. § 982(a)(2)(A) and 28 U.S.C. § 2461(c).

A TRUE BILL

FOREPERSON OF THE GRAND JURY

ABE MARTINEZ
ACTING UNITED STATES ATTORNEY


ASSISTANT UNITED STATES ATTORNEY